

REMARKS

Claims 1-35 are pending in this application. Claims 1-20 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. 5,611,874 to Zadno-Azizi et al. (WO 97/04895). Claims 1-5 and 7-20 are canceled, claim 6 is made into an independent claim, and new claims 21-35 are added. New claims 21-35 are supported by ¶¶ [0042]-[0044] in the specification as well as original claims 13-20.

Claim 6 Does Not Require Zadno-Azizi's Welded Seam

Claim 6 was rejected as being allegedly anticipated by *Zadno-Azizi* which describes forming a hollow cylinder or tube with the composite structure. *Zadno-Azizi* teaches only one way to form the cylindrical structure – by rolling a sheet and then welding the seams (col. 7, lns. 24-26, 37-39, 61-62, and 66-67, referring to Figs. 10 and 12, with reference numbers 71 and 89 showing the welded seams).

Applicant's claim 6 also recites a tubular structure formed by the composite material. However, unlike *Zadno-Azizi*, Applicant's tube can be formed without a welded seam. The tubes in Figs. 4A and 4B "may be constructed, for example, by placing tubes within other tubes and drawing" (in ¶ [0030] of the specification). Persons of ordinary skill in the art will understand that a "drawing" process inherently results in a "seamless" tube, as now recited in claim 6. Thus, the "seamless" tubes of Applicant's claim 6 do not have the welded seams as required by *Zadno-Azizi*. For at least this reason, Applicant submits that claim 6 is patentable over *Zadno-Azizi* and respectfully requests that the rejection be withdrawn.

New Claims 21-35 Recite Temperature Limitations That Are Suitable For Use in the Body

Claims 21-32 recite temperature limitations that allow reversible two-way actuation using physiologic body temperature and claims 33-35 recite temperature limitations that allow reversible two-way actuation using cycling temperatures that are suitable for use in the body. Claims 21-32 are supported by the disclosure in ¶ [0042] and ¶ [0043], which describe actuation cycles in which body temperature is the high or low cycling temperature. Claims 33-35 are supported by ¶ [0044], which describes thermal cycling in the body.

These limitations recite a feature of Applicant's invention that allows the composite material to be useful in medical devices that are applied to or implanted in the body. This material feature is absent from the disclosure of *Zadno-Azizi*. For at least this reason, Applicant submits that claims 21-35 are patentable over *Zadno-Azizi* and respectfully requests that the rejections be withdrawn.

CONCLUSION

Applicant respectfully submits that the present application is now in condition for allowance. The Examiner is invited to contact Applicant's representative to discuss any issue that would expedite allowance of this application.

Respectfully submitted,

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